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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,326	07/31/2001	Robert W. Torres	41250/WPC/P526	3726
23363	7590	03/02/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP 350 WEST COLORADO BOULEVARD SUITE 500 PASADENA, CA 91105			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,326

Applicant(s)

TORRES ET AL.

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's request for consideration filed on December 31, 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 5,7 and 8 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 3,792,416 to Moulin.

Regarding claims 5 and 8, Moulin discloses a device for sealing a cavity that comprises an interior surface. The device comprises a sleeve (150) having a skirt (formed when the sleeve is inserted inside the interior surface, Figure 2a).

The skirt includes a first section extending in a plane, which is substantially perpendicular to the longitudinal axis of the sleeve, and a second section comprising an interior and a sealing surface. A gap will be formed between the interior surface and the sleeve (Figure 2a). The sleeve and the skirt are made of an elastomeric material.

The skirt has a sealing surface having substantially the same shape as the interior surface of the cavity when the sleeve is inserted into the interior surface of the cavity. When it is inserted, the flange will deform only a small amount to form a seal between the sealing surface and the interior surface of the cavity.

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The fact that the skirt is molded or not, applicant is reminded that the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

As to claim 7, Moulin discloses that the sleeve includes a wiping land (174).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 9-11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,792,416 to Moulin in view of US Pat No 4,627,647 to Hauff.

Regarding claim 9, Moulin fails to disclose that the sleeve has the skirt before the insertion of the sleeve into the interior surface of the cavity. Moulin discloses that the sleeve will have a skirt having a sealing surface substantially the same shape as the interior surface of the cavity when the sleeve is inserted into the interior surface of the cavity. When it is inserted, the flange will deform only a small amount to form a seal between the sealing surface and the interior surface of the cavity.

Hauff teaches that is known in the art to have a sleeve (4) with a formed skirt (sealingly engaged to the interior of the cavity (5) before the insertion of the sleeve into the interior surface of the cavity.

The fact that the skirt is molded or not, applicant is reminded that the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

It would have been obvious to one having ordinary skill in the art at the time the invention was made a skirt, as taught by Hauff, into a sealing device as described by Moulin, in order to make a better sealing between the inside surface of the cavity and the sealing surface and to prevent lost in the sealing contact because of excessive wrinkled.

As to claim 10, Moulin discloses that the sleeve includes a wiping land (174).

As to claim 11, Moulin discloses that the wiping land cleans a portion of the interior surface of the cavity (Col. 9 Lines 13-16).

Response to Arguments

6. Applicant's arguments with respect to claims 5 and 7-11 have been considered but are moot in view of the new ground(s) of rejection.

The rejection to the claims in view of Moulin, as modified by Zimmerman, is withdrawn.

The Office Action presents a 102(b) rejection to claims 5,7 and 8 in view of Moulin. After reexamining the art and the claims (5,7 and 8), the "skirt" is not conditioned to be presented before insertion, like in claim 9, that requires that the skirt is presented previous the insertion. Therefore, Moulin clearly discloses a skirt (when the sleeve is already in place inside the cavity) that is in sealing engagement with the interior of the cavity.

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However, for claims 9-11, the method requires that the skirt have to be presented before insertion. Moulin fails to disclose that limitation. Moulin clearly discloses that the skirt is presented when the sleeve is inserted inside the cavity.

The claims are now rejected in view of Moulin, as been modified by Hauff. Hauff teaches that is known in the art to have a sleeve (4) with a formed skirt (sealingly engaged to the interior of the cavity (5) before the insertion of the sleeve into the interior surface of the cavity.

Also, new prior art cited, like Hoffman (US 3,662,761), Iversen (US 3,098,662) and Abila et al (US 4,991,858), teaches that is known in the art to have a sleeve with a formed skirt (sealingly engaged to the interior of a cavity) before the insertion of the sleeve into the interior surface of the cavity.

Therefore, it is demonstrated that is known in the art to have a sleeve with a skirt to be sealingly engaged to an interior surface.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo
Examiner
Art Unit 3677

February 24, 2004.

A handwritten signature in black ink, appearing to read 'W. L. Miller', with a stylized, cursive script.

**WILLIAM L. MILLER
PRIMARY EXAMINER**